

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:99CR75-2

UNITED STATES OF AMERICA

VS.

WAYNELY BROWN

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ORDER

THIS MATTER is before the Court on Defendant's motion to correct or reduce sentence pursuant to Fed. R. Crim. P. 35(a) or, alternatively, to reconsider the denial of his motion for reduction of sentence. The motion is denied.

Rule 35(a) states that a court may correct a sentence "that resulted from arithmetical, technical, or other clear error" within 7 days after sentencing. **Fed. R. Crim. P. 35(a)**. Defendant was sentenced in 2001, therefore, this Rule is clearly inapplicable. Alternatively, the Defendant asks the Court to reconsider the denial of his motion for reduction of sentence filed pursuant to 18 U.S.C. § 3582(c)(2) based on the new amendment to the Sentencing Guidelines and its retroactive application to

crack cocaine offenses. **See Order Regarding Motion for Sentence**

Reduction, filed March 16, 2009. Defendant suggests the Court should have considered whether the “disparity between the Guidelines treatment of crack and powder cocaine offenses [would have] entitled [Defendant] to a reduction beyond that suggested by the crack cocaine amendment.”

Defendant’s Motion, *supra*. The Court finds this argument, as well as the others raised in the motion, to be without merit.

IT IS, THEREFORE, ORDERED that the Defendant’s motion pursuant to Rule 35(a) and the alternative motion for reconsideration are hereby **DENIED**.

Signed: April 2, 2009

A handwritten signature in dark ink, appearing to read "Lacy H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

